

## Article - Health - General

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§19-4A-11.

(a) (1) On or before December 30, 2021, the Office of the Attorney General, in consultation with the Department and the Maryland Department of Labor, shall produce a guidance document concerning the application of employee protection laws in the Labor and Employment Article, to the use of personal care aides by residential service agencies.

(2) The guidance document required under paragraph (1) of this subsection shall:

(i) Describe with specific reference to the residential service care industry:

1. Relevant definitions of “employ”, “employee”, “employer”, and “independent contractor”;

2. The concept of independent contractor misclassification and the potential for legal liability including monetary damages for employees; and

3. Steps a residential service agency may take to ensure compliance with the Labor and Employment Article;

(ii) Be three pages or fewer and, to the extent feasible, written in plain language; and

(iii) Be revised and updated on an annual basis.

(b) (1) As a condition of obtaining an initial license from the Department to operate as a residential service agency and every 3 years thereafter, a residential service agency shall certify to the Department, on a form developed by the Department and through the signature of an individual with authority over the residential service agency’s pay or employment practices, that:

(i) The individual has read and understood the guidance document produced under subsection (a) of this section; and

(ii) The residential service agency will comply with the relevant requirements of the Labor and Employment Article.

(2) On an annual basis, the Secretary shall provide the most current version of the guidance document to each licensed residential service agency.

(3) A form developed by the Department for use under paragraph (1) of this subsection shall include a checkbox by which a residential service agency that receives Medicaid reimbursement for the provision of home care or similar services by a personal care aide shall indicate whether the residential service agency uses personal care aides designated as independent contractors.

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